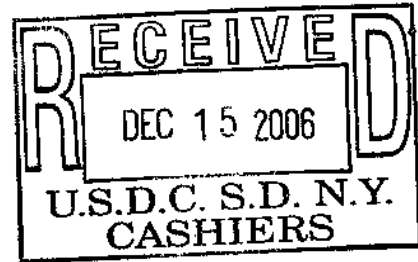


Kenneth J. Kelly (KK-4195)
Jennifer M. Horowitz (JH-3173)
Epstein Becker & Green, P.C.
250 Park Avenue
New York, New York 10177
212-351-4500
Attorneys for Defendant
Aetna Life Insurance Company



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
FREDRIC JOEL COHEN, M.D., P.C.
(Yahaira Kesten)

Plaintiff,

— against —

AETNA U.S. HEALTHCARE INSURANCE
COMPANY,

Defendant.
----- X

06 CV 15189
Civ. _____

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK:

Defendant Aetna Life Insurance Company ("Aetna"), named incorrectly by plaintiff as "Aetna U.S. Healthcare Insurance Company," by its attorneys Epstein Becker & Green, P.C., respectfully seeks to remove this action from the Civil Court of the City of New York, County of New York, to the United States District Court for the Southern District of New York. As reasons therefor, Aetna states as follows:

THE CIVIL COURT ACTION

1. Plaintiff Fredric Joel Cohen, M.D., P.C. purported to institute an action against Aetna in the Civil Court of the City of New York, County of New York (the "Civil Court Action") by serving a summons and endorsed complaint by regular mail to Aetna's New York

office, 99 Park Avenue, New York, New York. A copy of the summons and endorsed complaint ("complaint") is attached as Exhibit A.

2. Upon information and belief, plaintiff has offices located at 61 East 66th Street, New York, New York 10021.

3. As set forth more fully below, plaintiff's complaint seeks recovery of the sum of \$26,500, plus interest, for services rendered to the beneficiary of a health plan with American Museum of Natural History (the "Museum"). Aetna and the Museum entered into a contract pursuant to which Aetna provides administrative services to the Museum in connection with the Museum's self-insured health benefits plan.

4. The Civil Court Action is removable from the Civil Court to this Court pursuant to 28 U.S.C. § 1441(a), because the complaint raises claims under the laws of the United States over which this Court has original jurisdiction under 28 U.S.C. §1331.

BASIS FOR REMOVAL

5. Plaintiff alleges that Aetna issued health insurance to Yahaira Keston. Upon information and belief, Ms. Keston received health insurance from her employer, the Museum. The plan of health benefits provided by the Museum to its employees, including Ms. Keston, constitutes an employee welfare benefit plan within the meaning of the Employee Retirement Income Security Act ("ERISA") 29 U.S.C. §§ 1001, et seq.

6. Aetna provides administrative services to the Museum in connection with the Museum's health benefits plan pursuant to an administrative services contract between Aetna and the Museum.

7. Plaintiff has asserted one cause of action against Aetna in the complaint, alleging that Aetna breached an insurance contract when it refused to pay health coverage claims arising from Ms. Keston's insurance provided by the Museum.

8. Because plaintiff's claim against Aetna relates to an employee benefit plan within the meaning of ERISA, Aetna may remove to this Court pursuant to 28 U.S.C. § 1441(a).

9. ERISA provides an exclusive federal enforcement scheme for claims by plan beneficiaries and preempts state tort and contract actions. 29 U.S.C. §§ 1132 and 1144.

10. This notice has been filed within the time provided by 28 U.S.C. § 1446(b) and the Federal Rules of Civil Procedure. Aetna received the summons and complaint on December 7, 2006.

11. Upon the filing of this notice, Aetna will give written notice to plaintiff's attorney and will file a copy of this notice with the Clerk of the Court, New York City Civil Court, County of New York.

WHEREFORE, Aetna Life Insurance Company requests that the Civil Court Action now pending in the Civil Court of the City of New York, County of New York, be removed to this Court.

New York, New York
December 14, 2006

EPSTEIN BECKER & GREEN, P.C.

By: 

Kenneth J. Kelly (KK-4195)

Jennifer M. Horowitz (JH-3173)

250 Park Avenue

New York, New York 10177-0077

(212) 351-4500

Attorneys for Defendant

Aetna Life Insurance Company

RECEIVED

Exhibit A

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK

FREDRIC JOEL COHEN, M.D., P.C.
(Yahaira Kasten)

Index No. 07 0295 CVB

SUMMONS

plaintiff,
-against-

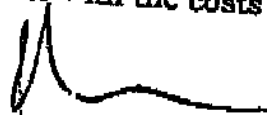
Plaintiff's Address
61 East 66th Street
New York, New York 10021
The basis of the venue designated is:
Plaintiff's place of business.

AETNA U.S. HEALTHCARE INSURANCE COMPANY,
defendant. X

To the above named defendant

You are hereby summoned to appear in the Civil Court of the City of New York, County of New York at the office of the said Court at 111 Centre Street, in the County of New York, City and State of New York, within the time provided by law as noted below and to file your answer to the endorsed summons- with the Clerk; upon your failure to answer judgment will be taken against you for the sum of \$ 26,500.00 with interest thereon from the 10th day of June, 2005 together with the costs of this action.

Dated: October 27, 2006



Robert A. Santucci

Attorneys for Plaintiffs:

SANTUCCI & ASSOCIATES

67 Wall Street - 22nd Floor

New York, New York 10005-3111

(212) 709-8357

Defendant's Address:
Aetna U.S. Healthcare Ins. Co.
99 Park Avenue
New York, New York 10016

Note. The law provides that: (a) If this summons is served by its delivery to you personally within the City of New York, you must appear and answer within TWENTY days after such service; or (b) If this summons is served by delivery to any other than you personally, or is served outside the City of New York, or by publication, or by any means other than personal delivery to you within the City of New York, you are allowed THIRTY days after proof of service thereof is filed with the Clerk of this Court within which to appear and answer. If the cause of action is for money only and a formal complaint is not attached to the summons, strike the words "endorsed complaint." If a formal complaint is attached to the summons, strike the words "endorsed summons."

070295 CVB
FILED N.Y.
COUNTY, NY
11/27/2006

ENDORSED COMPLAINT

A statement of the nature and substance of the plaintiff's cause of action is follows:

Jurisdiction and Venue: Plaintiff is a professional corporation with a place of business in the County, City and State of New York. Upon information and belief, defendant is a domestic corporation with a place of business at 99 Park Avenue, New York, New York 10016 and who transacts business within the City and State of New York. This transaction arose in the County, City, and State of New York.

First Cause of Action: This is an action for breach of contract. Heretofore defendant or its agent issued to Yahaira Kesten medical insurance coverage. That on or about or between April 9, 2005 and June 10, 2005 plaintiff provided medical services to Yahaira Kesten and submitted medical claims to the defendant in the amount of \$ 26,500.00 which the defendant refused to pay.

Attorneys for Plaintiff:
SANTUCCI & ASSOCIATES
67 Wall Street
22nd Floor
New York, New York 10005-3111
(212) 709-8357

11. पञ्च

APPROVED BY AMA COUNCIL ON MEDICAL SERVICE 6-11-67

PLEASE PRINT OR TYPE

APPROVED CMB-1213-0003 FORM CMB-1200 112-104. FORM FPM-1200
APPROVED CMB-1213-0003 FORM CMB-1200. APPROVED CMB-1213-0001 (CHAMPUS)

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

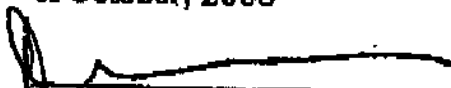
I, Catherine Lella, being duly sworn, say: I am not a party to the action, am over 18 years of age and reside in Suffolk County, New York.

On October 27, 2006, I served a copy of the within summons and endorsed complaint by depositing a true copy thereof, in a post-paid wrapper under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

Aetna U.S. Healthcare Insurance Company
99 Park Avenue
New York, New York 10016


Catherine Lella

Sworn to this 27th day
of October, 2006


Notary Public

ROBERT A. SANTUCCI
NOTARY PUBLIC, ST. of N.Y.
#02SA4871860
COMMISSION EXP. JAN. 31, 2007

